

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Tony Dejuan Jackson,

Case No. 22-cv-0965 (WMW/JFD)

Plaintiff,

ORDER

v.

Paul Schnell, Guy Bosch, AFSCME
Counsel Number #5 Corrections Guard
Unit Incident Management Team,
Stillwater Close Custody Correctional
Facility, Jane Malcolm, and Minnesota
Bureau of Mediation Services,

Defendants.

This matter is before the Court on Plaintiff Tony Dejuan Jackson's application to proceed *in forma pauperis* on appeal, (Dkt. 20), (IFP application). For the reasons addressed below, the Court denies the IFP application.

Plaintiff Tony Dejuan Jackson, a prisoner, commenced this action on April 14, 2022, alleging that Defendants violated his rights under the Constitution of the United States. Jackson also applied to proceed *in forma pauperis* (IFP) in district court. The magistrate judge denied Jackson's application to proceed IFP, observing that, in the course of filing numerous federal court actions, Jackson has accumulated three "strikes" for purposes of 28 U.S.C. § 1915(g). Specifically, Jackson has, "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted." 28 U.S.C. § 1915(g). Under such circumstances,

a prisoner IFP applicant generally cannot proceed IFP in further litigation. *Id.* For these reasons, the magistrate judge found that Jackson could not proceed IFP in this matter and required Jackson to pay the filing fee by June 17, 2022, to proceed.

Jackson subsequently paid the \$402 filing fee. On August 19, 2022, the magistrate judge issued a Report & Recommendation (R&R) recommending this action be dismissed without prejudice. This Court adopted the R&R and judgment issued on November 21, 2022. On December 6, 2022, Jackson filed the pending IFP application.

A district court may authorize a prisoner's appeal "without prepayment of fees." 28 U.S.C. § 1915(a)(1); *see also Cross v. Gen. Motors Corp.*, 721 F.2d 1152, 1157 (8th Cir. 1983). However, statutory restrictions govern prisoners with a history of frivolous filings:

"In no event shall a prisoner . . . appeal a judgment in a civil action or proceeding . . . if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury."

28 U.S.C. § 1915(g).

On more than three prior occasions, cases filed by Jackson have been dismissed as frivolous or for failure to state a claim on which relief can be granted. *See, e.g., Jackson v. FindJodi.com, Inc.*, No. 21-CV-1777 (SRN/DTS), 2022 WL 1050354, at *1 (D. Minn. Mar. 23, 2022); *Jackson v. FindJodi.com Inc.*, No. 20-CV-0353 (SRN/ECW), 2020 WL 4915834, at *2 (D. Minn. Aug. 21, 2020) (citing cases); *Jackson v. Dayton*, No. 17-CV-0880 (WMW/TNL), 2018 WL 3696600, at *2 (D. Minn. Aug. 3, 2018). Jackson's present

application fails to establish that he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Accordingly, Section 1915(g) bars Jackson from proceeding IFP on appeal in this action. The Court, therefore, denies Jackson’s IFP application. *Id.*

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Plaintiff Tony Dejuan Jackson’s application to proceed *in forma pauperis* on appeal, (Dkt. 20), is **DENIED**.

2. Pursuant to Federal Rule of Appellate Procedure 24(a)(4)(A), the Clerk of Court is **DIRECTED** to notify the United States Court of Appeals for the Eighth Circuit that this Court has denied Plaintiff Tony Dejuan Jackson’s application to proceed *in forma pauperis* on appeal.

Dated: January 5, 2023

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge